

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Southern District of Texas



United States Courts Southern  
District of Texas  
FILED

United States of America

v.

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Case No.

V-22-66M

Nathan Ochsner, Clerk of Court

Mark Anthony Garcia Jr.

Defendant(s)

Dec 6, 2022

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief

On or about the date(s) of December 1st, 2022 in the county of Victoria in the  
Southern District of Texas, the defendant(s) violated

*Code Section*

Title 18 U.S.C. 924 (c)(1)(A)(iii)

*Offense Description*

Any person who, did knowingly possess and discharge a firearm in furtherance of a crime of violence for which he may be prosecuted in a court of the United States, that is, attempted manslaughter and assault of an officer or employee of the United States Government, in the performance of his duties

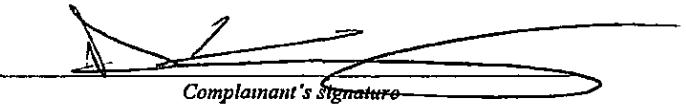
Title 18 U.S.C. 111(a) and (b)

Whoever uses a deadly weapon and forcibly assaults, resists, opposes, impedes, intimidates, or interferes with an officer or employee of the United States Government while engaged in or on account of the performance of official duties

This criminal complaint is based on these facts:

See attached affidavit

Continued on the attached sheet

  
Complainant's signature

Special Agent Derek Kay

Printed name and title

  
Judge's signature

Jason B. Libby, U.S. Magistrate Judge

Printed name and title

Date 12/06/2022

City and state Corpus Christi, Texas

AFFIDAVIT

I, Derek Kay, being first duly sworn, declare that I am a Special Agent with the Federal Bureau of Investigation (FBI), a Division of the United States Department of Justice, and have been employed since April 2022. As an Agent, I have been involved in investigations concerning multiple violations of federal statutes including violations of assault, bank fraud, robbery, and other matters. Prior to the FBI, I worked as a police officer/detective for 15 years in the State of Illinois, investigating multiple violations of Illinois statutes including violations of assault, robbery, domestic violence, and other matters. As a Special Agent with the FBI, I am vested with the authority to investigate violations of Federal laws, including Title 18 United States Code.

- a) This affidavit is in support of a criminal complaint charging Mark Anthony Garcia Jr. (hereinafter Garcia Jr.) with the criminal violations set forth in this Affidavit. The evidence available to me demonstrates there is probable cause to believe that Garcia Jr has violated statutes 18 U.S.C. 924 (c)(1)(A)(iii) and 18 U.S.C. 111 (a)(1) and (b) which provides as follows.

Title 18 U.S.C. section 924 (c)(1)(A)(iii) – Any person who, did knowingly possess and discharge a firearm in furtherance of a crime of violence for which he may be prosecuted in a court of the United States, that is, attempted manslaughter and assault of an officer or employee of the United States Government, in the performance of his duties

Title 18 U.S.C. Section 111 (a)(1) and (b) – Whoever uses a deadly weapon and forcibly assaults, resists, opposes, impedes, intimidates, or interferes with an officer or employee of the United States Government while engaged in or on account of the performance of official duties

Further, your Affiant states as follows.

1. I have been assigned to the FBI Corpus Christi Resident Agency since August 2022. Since that time, I have been involved with investigations regarding violations of Federal statutes. I am familiar with the information contained in this affidavit, either through personal investigation or through discussion with other law enforcement officers who have participated in and contributed documentary reports of their investigative efforts in this matter.
2. On December 1<sup>st</sup>, 2022, at approximately 9:00pm, members of the U.S. Marshals Service Gulf Coast Violent Offenders Fugitive Task Force (GSVOTF) attempted to execute an arrest warrant for Garcia Jr. at a residence in Victoria, Texas. Members of the GSVOTF knocked and announced their presence at the front door but received no response. They attempted to force entry into the home through the front door, but it was barricaded with a couch. GSVOTF members broke the front glass window and made entry into the home.
3. GSVOTF members announced their presence again once inside the home and identified themselves as law enforcement with an arrest warrant. They began searching for Garcia Jr. inside the home and heard two gunshots from a back bedroom. GSVOTF members exited the residence and secured a perimeter. At least five more gunshots were heard from the area of the back bedroom and flashes were seen through the bedroom window during a period of several hours as members of the GSVOTF and Victoria Police Department SWAT team attempted to have Garcia exit the home. Garcia Jr. exited the home at approximately 2:45am on December 2<sup>nd</sup>, 2022, after

CS gas was deployed inside Garcia Jr was subsequently taken into custody without further incident.

4. No law enforcement officers fired their service weapons nor were any law enforcement officers injured. No other individuals were present inside the home at the time of the gunshots from inside the residence
5. On December 2<sup>nd</sup>, 2022, at approximately 10:30am, members of the Victoria Police Department secured a search warrant for the home and located a Taurus 9mm handgun, bearing serial number ADE314096, and seven spent 9mm casings in the back bedroom where Garcia Jr. was located. Seven apparent bullet holes were found inside the home, two of which appeared to have exited through the walls. Of the two bullet holes in the wall, one was in the rear corner of the bedroom to the outside. The other was found in the hallway exterior corner, approximately five feet up from the floor. That bullet hole was directly between where GSVOTF members were present upon entry into the home and the back bedroom.

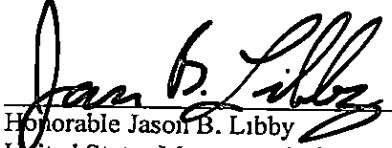
#### CONCLUSION

6. Based on the above information, your Affiant believes Garcia Jr did knowingly possess and discharge a firearm, that is, a Taurus GL3, 9mm semi-automatic pistol, bearing serial number ADE314096, by shooting at GSVOTF members who were carrying out their duties in their attempt to arrest Garcia Jr., in furtherance of a crime of violence for which he may be prosecuted in a court of the United States, that is, attempted manslaughter and assault of an officer or employee of the United States Government, in the performance of his duties, which is in violation of Title 18, United States Code Section 924 (c)(1)(A)(iii), and used a deadly weapon and forcibly assaulted, resisted, opposed, intimidated, impeded, or interfered with an officer or employee of the United States Government while engaged in or on account of the performance of official duties, in violation of Title 18, United States Code Section 111 (a)(1) and (b), on December 2<sup>nd</sup>, 2021, in Victoria County, Texas.



Derek A. Kay  
Special Agent  
Federal Bureau of Investigation

Submitted by reliable electronic means, sworn to,  
signature attested telephonically per Fed R. Crim P. 4 1.  
and probable cause found on this 6th day of December 2022.



Honorable Jason B. Libby  
United States Magistrate Judge  
Southern District of Texas